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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,342	02/26/2004	Howard David Hutton III	AA-615M	3969

27752 7590 02/06/2007  
THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
WINTON HILL BUSINESS CENTER - BOX 161  
6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER
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DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/06/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/787,342	HUTTON ET AL.
	Examiner Lorna M. Douyon	Art Unit 1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 November 2006.
- 2a) This action is **FINAL**.                                   2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2-4,9,11 and 12 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2-4, 9, 11-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

***Specification***

1. This action is responsive to the amendment filed on November 20, 2006.
2. Claims 2-4, 9, 11-12 are pending.
3. The objection to the disclosure is withdrawn in view of Applicants' amendment.
4. The rejection of claims 1, 3, 6, 7, 8-10 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fowler et al. (US Patent No. 5,635,469) is withdrawn in view of Applicants' amendment.
5. The rejection of claims 1, 3-12 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Loth et al. (US Patent No. 5,075,026) is withdrawn in view of Applicants' amendment.
6. The rejection of claim 2 under 35 U.S.C. 103(a) as being unpatentable over Fowler or Loth in view of Baeck et al. (US Patent No. 5,679,630) is withdrawn in view of Applicants' amendment.
7. The declaration under 37 CFR 1.132 filed November 20, 2006 is moot in view of Applicants' amendment.

8. Claims 2-3, 11-12 stands provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5, 6, 11 and 12 of copending Application No. 10/787,266. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are drawn to similar foam-generating kit comprising similar compositions differing only in that the present application requires a solvent, however, a solvent is not excluded from the "comprising" language of the copending application. Additionally, even though the copending application does not explicitly disclose the effective foaming dilution range, and/or effective solubilization dilution range, it would have been obvious to one of ordinary skill in the art to reasonably expect the present dishwashing composition to exhibit similar properties because similar ingredients in similar foam-dispensing containers have been utilized.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Claims 2-3, 11-12 stands provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 6, 11 and 12 of copending Application No. 10/787,343. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are drawn to similar foam-generating kit comprising similar compositions differing only in that the present application requires a solvent, however, a solvent is not excluded from the "comprising" language of the copending application. Additionally,

even though the copending application does not explicitly disclose the effective foaming dilution range, and/or effective solubilization dilution range, it would have been obvious to one of ordinary skill in the art to reasonably expect the present dishwashing composition to exhibit similar properties because similar ingredients in similar foam-dispensing containers have been utilized.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

10. Claims 2-4, 9, 11-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2, 3, 4 and 9 lack support for "dishwashing kit" with respect to claim 11, to which each of these claims are dependent upon.

Claim 11 recites the limitation "the dishwashing composition" in lines 6-7. There is insufficient antecedent basis for this limitation in the claim.

Claim 12, being dependent upon claim 11, is rejected as well.

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Claims 2-4, 9, 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petri et al. (US Patent No. 6,114,298), hereinafter "Petri".

Petri teaches a microemulsion suitable for disinfecting a surface (see col. 2, lines 48-49), such as dishes (see col. 14, line 59), comprising a surfactant, an aqueous phase comprising a bleach, and droplets dispersed in said aqueous phase, said droplets comprising an essential oil or an active thereof (see abstract; col. 2, lines 48-53). The aqueous phase of the microemulsions comprises at least water (see col. 8, lines 58-63) and may comprise as a preferred optional ingredient, a hydroxylated solvent (see col. 9, lines 51-53), such as glycol ethers (see col. 10, lines 1-25) and aliphatic alcohols such as ethanol (see col. 10, lines 45-53). The microemulsions may comprise as an optional ingredient, other solvents including terpene (see col. 11, lines 1-13), which terpene read on the "low water-soluble oil having a solubility in water of less than about 5000 ppm as required in independent claim 11. The microemulsion may further comprise a variety of other optional ingredients such as enzymes (see col. 11, lines 19-24). The microemulsions may be packaged in a variety of suitable detergent packaging known to those skilled in the art, for example, spray dispenser, preferably in a trigger spray dispenser or in a pump spray dispenser, and may include manually operated foam trigger-type dispensers (see col. 16, lines 23-44). The microemulsion may also be executed in the form of wipes (see col. 16, lines 60-64). Petri, however, fails to specifically disclose a foam trigger-type dispenser comprising a microemulsion which comprises a surfactant, water, ethanol, glycol ether, terpene and enzymes; the foam to weight ratio as those recited and the foaming dilution range and oil solubilization dilution range of the composition.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare a microemulsion, packaged in a foam trigger-type dispenser, comprising optimum proportions of a surfactant, water, ethanol, glycol ether, terpene and enzymes because Petri teaches the combination of these ingredients for effectively disinfecting a surface such as dishes, and to reasonably expect the foam trigger-type dispenser to generate a foam having a foam to weight ratio as those recited, and the resulting microemulsion to exhibit a foaming dilution range and oil solubilization dilution range as those recited, because similar ingredients and similar foam-generating dispenser have been utilized.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Lorna M. Douyon*  
Lorna M. Douyon  
Primary Examiner  
Art Unit 1751